



2005 SENATE BILL 28

January 25, 2005 - Introduced by Senators KANAVAS, S. FITZGERALD, STEPP, KEDZIE, LEIBHAM, DARLING, BROWN, REYNOLDS, ROESSLER, ZIEN, LAZICH and A. LASEE, cosponsored by Representatives HONADEL, SUDER, BIES, DAVIS, J. FITZGERALD, FREESE, FRISKE, GARD, GUNDERSON, HINES, HUNDERTMARK, HUEBSCH, JENSEN, KAUFERT, LAMB, F. LASEE, LEMAHIEU, MCCORMICK, MEYER, MONTGOMERY, MOULTON, NASS, NERISON, NISCHKE, OWENS, PETTIS, STONE, STRACHOTA, TOWNSEND, VAN ROY, VOS, VRAKAS, VUKMIR, M. WILLIAMS and WOOD. Referred to Joint Committee on Finance.

1 **AN ACT to amend** 121.91 (2m) (e) (intro.), 121.91 (2m) (r) 1. (intro.), 121.91 (2m)
2 (r) 2. (intro.) and 121.91 (4) (f); and **to create** 38.17, 66.0602, 121.91 (2m) (f) and
3 121.91 (2m) (g) of the statutes; **relating to:** school district revenue limits and
4 levy limits for cities, villages, towns, counties, and technical college districts.

Analysis by the Legislative Reference Bureau

This bill creates local levy limits that apply to cities, villages, towns, counties (political subdivisions), and technical college districts. Generally, the bill prohibits a political subdivision from increasing its levy by a percentage that exceeds the percentage change in the political subdivision's equalized value due to new construction, less improvements removed, not including any such changes in a tax incremental district (TID). In addition, the calculation of a city's, village's, or town's levy does not include any tax increment that is generated by a TID. With regard to technical college districts, the levy limit is the levy for the previous year multiplied by 1.026. The bill contains exceptions to the levy limit for political subdivisions that transfer the provision of services, for cities or villages that annex town territory, and for a county levy that relates to a county Children with Disabilities Education Board. The levy limit may also be exceeded if a political subdivision's or technical college district's resolution to do so is approved in a referendum. A town with a population of less than 2,000 may exceed the levy limit if a resolution to do so is approved by an annual or special town meeting. The levy limits do not apply beginning three years after the effective date of the bill.

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Under the bill, a technical college district's or political subdivision's levy limit is increased if the amount of debt service in the current year exceeds the amount in the prior year for debt that was approved by the governing body before July 1, 2005. This bill exempts from the limit all funds needed to pay debt service on debt authorized by resolution or referendum before July 1, 2005, and on debt authorized by referendum on or after July 1, 2005.

This bill also allows a city or village which has been providing services for a fee to property located in a town for at least ten years, and which annexes territory from that town, to increase the limit otherwise applicable in the current year by an amount equal to the city's or village's mill rate applied to the current assessed value of the annexed territory. The limit otherwise applicable to the town from which the territory was annexed is reduced by an amount equal to the town's mill rate multiplied by the assessed value of the annexed territory as of the last year that the territory was subject to town taxation.

Also under this bill, the limit otherwise applicable does not apply to the amount that a 1st class city (presently only Milwaukee) levies for school purposes. Currently, a 1st class city school district is not authorized to levy a tax; the city in which the school district is located levies a tax for school purposes at the direction of the school board.

This bill sets the per pupil adjustment under school district revenue limits at \$120 in the 2005–06 school year and at \$100 in each subsequent school year. Under current law, the per pupil adjustment is approximately \$241 in the 2004–05 school year and is adjusted for inflation in subsequent school years.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 38.17 of the statutes is created to read:

2 **38.17 Levy limit. (1) DEFINITION.** In this section, “debt service” includes debt
3 service on debt issued or reissued to fund or refund outstanding municipal
4 obligations, interest on outstanding municipal obligations, and related issuance
5 costs and redemption premiums.

6 **(2) LIMIT.** Except as provided in subs. (3) and (4), no district board may increase
7 its levy for any fiscal year to an amount that exceeds its levy for the previous fiscal
8 year multiplied by 1.026.

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1 **(3) ADJUSTMENTS.** (a) 1. If a district board transfers to another governmental
2 unit responsibility for providing any service that it provided in the preceding fiscal
3 year, the limit otherwise applicable under sub. (2) in the current fiscal year is
4 decreased by the cost that it would have incurred to provide that service, as
5 determined by the department of revenue.

6 2. If a district board increases the services that it provides by adding
7 responsibility for providing a service transferred to it from another governmental
8 unit that provided the service in the previous fiscal year, the limit otherwise
9 applicable under sub. (2) in the current fiscal year is increased by the cost of that
10 service, as determined by the department of revenue.

11 (b) 1. If the amount of debt service for a district board in the preceding fiscal
12 year is less than the amount of debt service needed in the current fiscal year, as a
13 result of the district board adopting a resolution before July 1, 2005, authorizing the
14 issuance of debt, the limit otherwise applicable under sub. (2) for the current fiscal
15 year is increased by the difference between the 2 amounts, as determined by the
16 department of revenue.

17 2. The limit otherwise applicable under this section does not apply to amounts
18 levied by a district board for the payment of any general obligation debt service,
19 including debt service on debt issued or reissued to fund or refund outstanding
20 municipal obligations, interest on outstanding municipal obligations, or the
21 payment of related issuance costs or redemption premiums, authorized on or after
22 July 1, 2005, by a referendum and secured by the full faith and credit of the district.

23 **(4) REFERENDUM.** (a) 1. A district board may exceed the levy limit under sub.
24 (2) if it adopts a resolution to that effect and the resolution is approved in a

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1 referendum. The resolution shall specify the proposed amount of increase in the levy
2 beyond the amount that is allowed under sub. (2).

3 2. Except as provided in subd. 3., the district board may call a special
4 referendum for the purpose of submitting the resolution to the electors of the district
5 for approval or rejection.

6 3. A referendum to exceed the limit under sub. (2) for the levy for the 2006-07
7 fiscal year shall be held at the spring primary or election or September primary or
8 general election in 2006.

9 (b) The district board shall publish type A, B, C, D, and E notices of the
10 referendum under s. 10.01 (2). Section 5.01 (1) applies in the event of failure to
11 comply with the notice requirements of this paragraph.

12 (c) The referendum shall be held in accordance with chs. 5 to 12. The district
13 board shall provide the election officials with all necessary election supplies. The
14 form of the ballot shall correspond substantially with the standard form for
15 referendum ballots prescribed by the elections board under ss. 5.64 (2) and 7.08 (1)

16 (a). The question shall be submitted as follows: "Under state law, the percentage
17 increase in the levy of the (name of district) for the next fiscal year, (year), is
18 limited to%, resulting in a levy of \$..... Shall the (name of district) be allowed
19 to exceed this limit such that the percentage increase for the next fiscal year,
20 (year), will be%, resulting in a levy of \$....?"

21 (d) Within 14 days after the referendum, the district board shall certify the
22 results of the referendum to the department of revenue. The limit otherwise
23 applicable to the district under sub. (2) is increased for the next fiscal year by the
24 amount approved by a majority of those voting on the question.

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1 **(5) SUNSET.** This section does not apply beginning 3 years after the effective
2 date of this subsection [revisor inserts date].

3 **SECTION 2.** 66.0602 of the statutes is created to read:

4 **66.0602 Local levy limits. (1) DEFINITIONS.** In this section:

5 (a) “Debt service” includes debt service on debt issued or reissued to fund or
6 refund outstanding municipal or county obligations, interest on outstanding
7 municipal or county obligations, and related issuance costs and redemption
8 premiums.

9 (b) “Political subdivision” means a city, village, town, or county.

10 (c) “Valuation factor” means a percentage equal to the percentage change in the
11 political subdivision’s January 1 equalized value due to new construction less
12 improvements removed between the year before the previous year and the previous
13 year, but not less than zero. In determining the valuation factor, the department of
14 revenue shall exclude the value increment, as defined in ss. 60.85 (1) (q) and 66.1105
15 (2) (m), of any tax incremental district that is located in the political subdivision.

16 **(2) LEVY LIMIT.** Except as provided in subs. (3), (4), and (5), no political
17 subdivision may increase its levy in any year by a percentage that exceeds the
18 political subdivision’s valuation factor. In determining its levy in any year, a city,
19 village, or town shall subtract any tax increment that is calculated under s. 60.85 (1)
20 (L) or 66.1105 (2) (i).

21 **(3) EXCEPTIONS.** (a) If a political subdivision transfers to another governmental
22 unit responsibility for providing any service that the political subdivision provided
23 in the preceding year, the levy increase limit otherwise applicable under this section
24 to the political subdivision in the current year is decreased to reflect the cost that the

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1 political subdivision would have incurred to provide that service, as determined by
2 the department of revenue.

3 (b) If a political subdivision increases the services that it provides by adding
4 responsibility for providing a service transferred to it from another governmental
5 unit that provided the service in the preceding year, the levy increase limit otherwise
6 applicable under this section to the political subdivision in the current year is
7 increased to reflect the cost of that service, as determined by the department of
8 revenue.

9 (c) Except as provided in par. (f), if a city or village annexes territory from a
10 town, the city's or village's levy increase limit otherwise applicable under this section
11 is increased in the current year by an amount equal to the town levy on the annexed
12 territory in the preceding year and the levy increase limit otherwise applicable under
13 this section in the current year for the town from which the territory is annexed is
14 decreased by that same amount, as determined by the department of revenue.

15 (d) 1. If the amount of debt service for a political subdivision in the preceding
16 year is less than the amount of debt service needed in the current year, as a result
17 of the political subdivision adopting a resolution before July 1, 2005, authorizing the
18 issuance of debt, the levy increase limit otherwise applicable under this section to the
19 political subdivision in the current year is increased by the difference between these
20 2 amounts, as determined by the department of revenue.

21 2. The limit otherwise applicable under this section does not apply to amounts
22 levied by a political subdivision for the payment of any general obligation debt
23 service, including debt service on debt issued or reissued to fund or refund
24 outstanding obligations of the political subdivision, interest on outstanding
25 obligations of the political subdivision, or the payment of related issuance costs or

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1 redemption premiums, authorized on or after July 1, 2005, by a referendum and
2 secured by the full faith and credit of the political subdivision.

3 (e) The limit otherwise applicable under this section does not apply to the
4 amount that a county levies in that year for a county children with disabilities
5 education board.

6 (f) If a city or village which has been providing services for a fee to property
7 located in a town for at least 10 years, annexes territory from that town, the city's
8 or village's levy increase limit otherwise applicable under this section is increased
9 in the current year by an amount equal to the city's or village's mill rate applied to
10 the current assessed value of the annexed territory, and the levy increase limit
11 otherwise applicable under this section in the current year for the town from which
12 the territory is annexed is decreased by the town's mill rate applied to the assessed
13 value of the annexed territory as of the last year that the territory was subject to
14 taxation by the town, as determined by the department of revenue.

15 (g) The limit otherwise applicable under this section does not apply to the
16 amount that a 1st class city levies for school purposes.

17 **(4) REFERENDUM EXCEPTION.** (a) A political subdivision may exceed the levy
18 increase limit under sub. (2) if its governing body adopts a resolution to that effect
19 and if the resolution is approved in a referendum. The resolution shall specify the
20 proposed amount of increase in the levy beyond the amount that is allowed under
21 sub. (2). With regard to a referendum relating to the 2005 or 2007 levy, the political
22 subdivision may call a special referendum for the purpose of submitting the
23 resolution to the electors of the political subdivision for approval or rejection. With
24 regard to a referendum relating to the 2006 levy, the referendum shall be held at the
25 next succeeding spring primary or election or September primary or general election.

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1 (b) The clerk of the political subdivision shall publish type A, B, C, D, and E
2 notices of the referendum under s. 10.01 (2). Section 5.01 (1) applies in the event of
3 failure to comply with the notice requirements of this paragraph.

4 (c) The referendum shall be held in accordance with chs. 5 to 12. The political
5 subdivision shall provide the election officials with all necessary election supplies.
6 The form of the ballot shall correspond substantially with the standard form for
7 referendum ballots prescribed by the elections board under ss. 5.64 (2) and 7.08 (1)

8 (a). The question shall be submitted as follows: "Under state law, the increase in the
9 levy of the (name of political subdivision) for the tax to be imposed for the next
10 fiscal year, (year), is limited to%, which results in a levy of \$.... Shall the
11 (name of political subdivision) be allowed to exceed this limit and increase the levy
12 for the next fiscal year, (year), by a total of%, which results in a levy of \$....?"

13 (d) Within 14 days after the referendum, the clerk of the political subdivision
14 shall certify the results of the referendum to the department of revenue. The levy
15 increase limit otherwise applicable to the political subdivision under sub. (2) is
16 increased in the next fiscal year by the percentage approved by a majority of those
17 voting on the question.

18 **(5) EXCEPTION, CERTAIN TOWNS.** A town with a population of less than 2,000 may
19 exceed the levy increase limit otherwise applicable under this section to the town if
20 the annual town meeting or a special town meeting adopts a resolution to that effect.
21 The limit otherwise applicable to the town under sub. (2) is increased in the next
22 fiscal year by the percentage approved by a majority of those voting on the question.
23 Within 14 days after the adoption of the resolution, the town clerk shall certify the
24 results of the vote to the department of revenue.

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1 **(6) SUNSET.** This section does not apply beginning 3 years after the effective
2 date of this subsection [revisor inserts date].

3 **SECTION 3.** 121.91 (2m) (e) (intro.) of the statutes is amended to read:

4 121.91 **(2m)** (e) (intro.) Except as provided in subs. (3) and (4), no school district
5 may increase its revenues for the 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04,
6 or 2004-05 school year ~~or for any school year thereafter~~ to an amount that exceeds
7 the amount calculated as follows:

8 **SECTION 4.** 121.91 (2m) (f) of the statutes is created to read:

9 121.91 **(2m)** (f) Except as provided in subs. (3) and (4), no school district may
10 increase its revenues for the 2005-06 school year to an amount that exceeds the
11 amount calculated as follows:

12 1. Divide the sum of the amount of state aid received in the previous school year
13 and property taxes levied for the previous school year, excluding property taxes
14 levied for the purpose of s. 120.13 (19) and excluding funds described under sub. (4)
15 (c), by the average of the number of pupils enrolled in the 3 previous school years.

16 2. Add \$120 to the result under subd. 1.

17 3. Multiply the result under subd. 2. by the average of the number of pupils
18 enrolled in the current and the 2 preceding school years.

19 **SECTION 5.** 121.91 (2m) (g) of the statutes is created to read:

20 121.91 **(2m)** (g) Except as provided in subs. (3) and (4), no school district may
21 increase its revenues for the 2006-07 school year or for any school year thereafter
22 to an amount that exceeds the amount calculated as follows:

23 1. Divide the sum of the amount of state aid received in the previous school year
24 and property taxes levied for the previous school year, excluding property taxes

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1 levied for the purpose of s. 120.13 (19) and excluding funds described under sub. (4)
2 (c), by the average of the number of pupils enrolled in the 3 previous school years.

3 2. Add \$100 to the result under subd. 1.

4 3. Multiply the result under subd. 2. by the average of the number of pupils
5 enrolled in the current and the 2 preceding school years.

6 **SECTION 6.** 121.91 (2m) (r) 1. (intro.) of the statutes is amended to read:

7 121.91 **(2m)** (r) 1. (intro.) Notwithstanding pars. (c), ~~(d)~~ and ~~(e)~~ to (g), if a school
8 district is created under s. 117.105, its revenue limit under this section for the school
9 year beginning with the effective date of the reorganization shall be determined as
10 follows except as provided under subs. (3) and (4):

11 **SECTION 7.** 121.91 (2m) (r) 2. (intro.) of the statutes is amended to read:

12 121.91 **(2m)** (r) 2. (intro.) If a school district is created under s. 117.105, the
13 following adjustments to the calculations under pars. (c), ~~(d)~~ and ~~(e)~~ to (g) apply for
14 the 2 school years beginning on the July 1 following the effective date of the
15 reorganization:

16 **SECTION 8.** 121.91 (4) (f) of the statutes is amended to read:

17 121.91 **(4)** (f) 1. For the 1999–2000 school year or any school year thereafter,
18 if the average of the number of pupils enrolled in the current and the 2 preceding
19 school years is less than the average of the number of pupils enrolled in the 3 previous
20 school years, the limit otherwise applicable under sub. (2m) ~~(e)~~ (f) or (g) is increased
21 by the additional amount that would have been calculated had the decline in average
22 enrollment been ~~25%~~ 25 percent of what it was.

